

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERNEST DUGAR, III,

Plaintiff,

v.

CONTRA COSTA COUNTY SOCIAL
SERVICES, GENERAL ASSISTANCE
PROGRAMS,

Defendant.

Case No. [14-cv-02381-JD](#)

**ORDER WITHDRAWING ORDER
ADOPTING MAGISTRATE JUDGE'S
REPORT, GRANTING PLAINTIFF'S
MOTION TO PROCEED IN FORMA
PAUPERIS, AND DISMISSING
COMPLAINT WITH LEAVE TO
AMEND**

On August 8, 2014, the Court issued an order adopting Magistrate Judge Beeler's Report and Recommendation Granting Plaintiff's Application to Proceed In Forma Pauperis and to Remand the Action. Dkt. No. 10. The Court withdraws that Order, because the Report and Recommendation incorrectly ordered this case to be remanded to Contra Costa County Superior Court, even though the complaint was filed in this Court on federal question jurisdiction grounds.

The Court rules as follows. The Court grants Plaintiff Edgar Dugar III's application to proceed in forma pauperis. Even construing the complaint liberally,¹ the Court finds that the complaint does not allege diversity jurisdiction or federal question jurisdiction. Accordingly, the

¹ The Court construes pro se pleadings liberally and affords pro se plaintiffs "the benefit of any doubt." *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010).

1 complaint is dismissed. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995) (affirming
2 dismissal of complaint for failure to state a basis for federal subject matter jurisdiction). Mr.
3 Dugar may amend his complaint to adequately allege federal subject matter jurisdiction by
4 September 17, 2014. Mr. Dugar's failure to file an amended complaint within that time period
5 will lead to dismissal of this case with prejudice for failure to prosecute.

6 Mr. Dugar should be aware that there is free legal assistance available to litigants without
7 lawyers in federal court. Assistance at the Legal Help Center is available to anyone who is
8 representing him- or herself in a civil lawsuit in the San Francisco or Oakland divisions of the
9 United States District Court for the Northern District of California. The Legal Help Center is
10 located in the federal courthouse in San Francisco: 450 Golden Gate Avenue, 15th Floor, Room
11 2796. Assistance is provided by appointment only, and appointments are held in person at the
12 Legal Help Center. A litigant may schedule an appointment by signing up in the appointment
13 book located on the table outside the door of the Center or by calling the Legal Help Center
14 appointment line at 415-782-8982. Mr. Dugar is encouraged to seek assistance from the Legal
15 Help Center in amending the complaint.

16 **IT IS SO ORDERED.**

17 Dated: August 11, 2014

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19 _____
20 JAMES DONATO
21 United States District Judge
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 8/12/2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ernest Dugar, III
1928 Hill Avenue
Richmond, CA 94801

Dated: 8/12/2014

Richard W. Wieking
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO